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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **Bakhtiar Moussazadeh, M.D.** **18960 Ventura Blvd., # 204** **Tarzana, CA 91356-3224** **Physician's and Surgeon's Certificate No. A 108651,** Respondent.	Case No. 800-2020-070109 **A C C U S A T I O N**

PARTIES

1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about June 30, 2009, the Medical Board issued Physician's and Surgeon's Certificate Number A 108651 to Bakhtiar Moussazadeh, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2025, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2004 of the Code states:

The board shall have the responsibility for the following:

(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

(b) The administration and hearing of disciplinary actions.

(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

(f) Approving undergraduate and graduate medical education programs.

(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

(h) Issuing licenses and certificates under the board's jurisdiction.

(i) Administering the board's continuing medical education program.

5. Section 2220 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:

(a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and Section 805.01.

(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

(c) Investigating the nature and causes of injuries from cases which shall be reported of a high number of judgments, settlements, or arbitration awards against a physician and surgeon.

6. Section 2227 of the Code states:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

(1) Have his or her license revoked upon order of the board.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

7. Section 2228 of the Code states:

The authority of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or the administrative law judge.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the board. If an examination is ordered, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

(d) Providing the option of alternative community service in cases other than violations relating to quality of care.

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STATUTORY PROVISIONS

8. Section 2234 of the Code, states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

9. Section 2261 of the Code states:

Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.

10. Section 2262 of the Code states:

Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct.

In addition to any other disciplinary action, the Division of Medical Quality or the California Board of Podiatric Medicine may impose a civil penalty of five hundred dollars ($500) for a violation of this section.

11. Section 2266 of the Code states:

The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

12. Section 2271 of the Code states:

Any advertising in violation of Section 17500, relating to false or misleading advertising, constitutes unprofessional conduct.

13. Section 2272 of the Code states:

Any advertising of the practice of medicine in which the licensee fails to use his or her own name or approved fictitious name constitutes unprofessional conduct.

14. Section 2285 of the Code states:

The use of any fictitious, false, or assumed name, or any name other than his or her own by a licensee either alone, in conjunction with a partnership or group, or as the name of a professional corporation, in any public communication, advertisement, sign, or announcement of his or her practice without a fictitious-name permit obtained pursuant to Section 2415 constitutes unprofessional conduct. This section shall not apply to the following:

(a) Licensees who are employed by a partnership, a group, or a professional corporation that holds a fictitious name permit.

(b) Licensees who contract with, are employed by, or are on the staff of, any clinic licensed by the State Department of Health Services under Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code.

(c) An outpatient surgery setting granted a certificate of accreditation from an accreditation agency approved by the medical board.

(d) Any medical school approved by the division or a faculty practice plan connected with the medical school.

15. Section 2415 of the Code states:

(a) Any physician and surgeon or any doctor of podiatric medicine, as the case may be, who as a sole proprietor, or in a partnership, group, or professional corporation, desires to practice under any name that would otherwise be a violation of Section 2285 may practice under that name if the proprietor, partnership, group, or corporation obtains and maintains in current status a fictitious-name permit issued by the Division of Licensing, or, in the case of doctors of podiatric medicine, the California Board of Podiatric Medicine, under the provisions of this section.

(b) The division or the board shall issue a fictitious-name permit authorizing the holder thereof to use the name specified in the permit in connection with his, her, or its practice if the division or the board finds to its satisfaction that:

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(1) The applicant or applicants or shareholders of the professional corporation hold valid and current licenses as physicians and surgeons or doctors of podiatric medicine, as the case may be.

(2) The professional practice of the applicant or applicants is wholly owned and entirely controlled by the applicant or applicants.

(3) The name under which the applicant or applicants propose to practice is not deceptive, misleading, or confusing.

(c) Each permit shall be accompanied by a notice that shall be displayed in a location readily visible to patients and staff. The notice shall be displayed at each place of business identified in the permit.

(d) This section shall not apply to licensees who contract with, are employed by, or are on the staff of, any clinic licensed by the State Department of Health Care Services under Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code or any medical school approved by the division or a faculty practice plan connected with that medical school.

(e) Fictitious-name permits issued under this section shall be subject to Article 19 (commencing with Section 2421) pertaining to renewal of licenses.

(f) The division or the board may revoke or suspend any permit issued if it finds that the holder or holders of the permit are not in compliance with the provisions of this section or any regulations adopted pursuant to this section. A proceeding to revoke or suspend a fictitious-name permit shall be conducted in accordance with Section 2230.

(g) A fictitious-name permit issued to any licensee in a sole practice is automatically revoked in the event the licensee's certificate to practice medicine or podiatric medicine is revoked.

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16. Section 651 states:

(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

...

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

...

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

...

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5)(A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

(B) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(C) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician and surgeon's licensing board prior to January 1, 2019, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified

by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience. A multidisciplinary board or association approved by the Medical Board of California prior to January 1, 2019, shall retain that approval.

For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician and surgeon's licensing board prior to January 1, 2019, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

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(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

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(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

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(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

(k) A physician and surgeon or doctor licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California or a doctor of podiatric medicine licensed pursuant to Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars ($10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

17. Section 17500 of the Code states:

It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both that imprisonment and fine.

COST RECOVERY

18. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

FACTUAL ALLEGATIONS

19. Respondent is an anesthesiologist who provides anesthesia and pain management services. Respondent is not currently board certified in anesthesiology, and he has never been board certified in pain medicine. Respondent did not complete a pain medicine anesthesiology fellowship.

20. Patient A[1] was a 62-year-old female former nurse who suffered a work-related accident in or around 2006, in which she suffered a neck injury, resulting in chronic neck pain and a cervical spinal fusion surgery. Patient A was rear-ended in a motor vehicle accident in or around March 2016. The motor vehicle accident exacerbated her neck symptoms and caused the development of new onset back pain.

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[1] The patient is identified in this Accusation by letter for privacy purposes.

21. On or about January 17, 2017, Patient A presented to Respondent for evaluation and treatment of her chronic pain and exacerbation of her symptoms. At that visit, Respondent took a history and conducted a physical examination. Respondent diagnosed Patient A with a musculoligamentous injury of the spine,[2] spinal enthesopathy,[3] cervical spondylosis,[4] myalgia and myositis,[5] muscle spasm, lumbar spondylosis; cervical radiculitis,[6] cervical disc displacement,[7] thoracic spondylosis, lumbar radiculitis, lumbar disc displacement, and bilateral hip pain. Respondent's plan was to: (a) order an MRI of the cervical spine; (b) refer Patient A for physical therapy; (c) consider intervention including facet joint injections, cervical epidural steroid injection, or a combination of both. Respondent noted that the cost for one injection session ranged from approximately $10,000.00 to $20,000.00, including Respondent's professional fee, the anesthesiology fee, and the cost of the facility.

22. On or about February 18, 2017, Respondent performed a cervical epidural steroid injection (cervical ESI)[8] on Patient A. However, there is no progress note, procedure note, or operative record in Patient A's medical records maintained by Respondent corresponding to this procedure.

23. On or about March 4, 2017, Respondent performed a second cervical epidural steroid injection on Patient A. There is no progress note, procedure note, or operative record in Patient A's medical records maintained by Respondent corresponding to this procedure.

24. On or about April 20, 2017, Patient A returned to Respondent for a follow up visit. Respondent noted that Patient A had undergone two cervical epidural injections since the initial

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[2] Injury to both the muscles and ligaments of the spine.

[3] Spinal enthesopathy is inflammation of a ligament, cartilage, or tendon at the point it inserts into a bone that forms part of the spine.

[4] Spondylosis is abnormal wear on the cartilage and bones of the spine. It is a common cause of pain in the affected area.

[5] Myalgia is a medical term for muscle aches and pain; myositis refers to any condition causing inflammation in the muscles.

[6] Radiculitis or radicular pain is pain that radiates along the path of a specific nerve as a response of pressure on the nerve root.

[7] Disc displacement occurs when there is a herniation or protrusion between discs in the spine.

[8] A cervical ESI is an injection of anti-inflammatory medicine – a steroid or corticosteroid – in the epidural space around the spinal nerves of the neck. The goal of cervical ESI is to help manage chronic pain caused by irritation and inflammation of the spinal nerve roots in the neck.

consultation on or about January 17, 2017, with reported 70% improvement for four (4) days after the injection on or about February 18, 2017, and 100% improvement for four (4) days after the injection on or about March 4, 2017. As Patient A's symptoms had not resolved, Respondent recommended that Patient A see a neurosurgeon and return to Respondent for a follow up visit thereafter.

25. On or about July 17, 2017, Patient A returned for a follow up visit with Respondent. Respondent noted that Patient A had been seen by Dr. F.M., a neurosurgeon, who recommended cervical facet block injections.[9] There is no consultation note from Dr. F.M. in Patient A's medical records maintained by Respondent. Respondent recommended that Patient A undergo a cervical facet block at bilateral C4-C5 and C5-C6, possibly to be repeated "for diagnostic confirmation," with the possibility of proceeding with radiofrequency neurotomy[10] at a later time. Respondent noted that he offered a choice of local anesthetic or intravenous sedation to Patient A "for comfort during the procedure."

26. On or about July 17, 2017, Respondent performed the first cervical facet block on Patient A at the Tarzana Surgical Institute,[11] an outpatient surgery center. The "Consent for Surgical Care" form signed by Patient A identified Respondent as the physician who would be performing the procedure. The "Patient Consent to Anesthesia" form did not set forth the name of the anesthesiologist who would be providing anesthetic services or the type of anesthesia to be performed. Per the procedure report of this date, the injection was performed under fluoroscopic

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[9] A facet block is an injection of local anesthetic and steroid into a facet joint in the spine. Facet joints are small joints at each segment of the spine that provide stability and help guide motion.

[10] Radiofrequency neurotomy, also called radiofrequency ablation, uses heat generated by radio waves to target specific nerves and temporarily turn off their ability to send pain signals.

[11] Tarzana Surgical Institute is now known as Brand Tarzana Surgical Institute.

guidance and monitored anesthesia care (MAC).[12] Per the anesthesia record, Respondent was both the proceduralist and the anesthesiologist for the procedure. In the procedure report, Respondent described the procedure as uneventful and without complications.

27. On or about July 24, 2017, Respondent performed a second cervical facet block on Patient A at the Tarzana Surgical Institute. The "Consent for Surgical Care" form signed by Patient A on this date identified Respondent as the physician who would be performing the procedure. The "Patient Consent to Anesthesia" did not set forth the name of the anesthesiologist who would be providing anesthetic services or the type of anesthesia to be performed. Per the procedure report of this date, the injection was performed under fluoroscopic guidance and MAC. Per the anesthesia record, Respondent was both the proceduralist and the anesthesiologist for the procedure. Respondent described the procedure as uneventful and without complications.

28. On or about July 31, 2017, Patient A and her family contend that Patient A underwent a third cervical facet block, however no records for such a procedure exist.

29. On or about August 4, 2017, Respondent performed a "[l]eft C4/5 and C5/6 facet joint/medial branch radiofrequency denervation under fluoroscopic guidance" on Patient A at the Tarzana Surgical Institute. The "Consent for Surgical Care" form signed by Patient A on this date identified Respondent as the physician who would be performing the procedure. The "Patient Consent to Anesthesia" form did not set forth the name of the anesthesiologist who would be providing anesthetic services or the type of anesthesia to be performed. Per the procedure report of this date, the procedure was performed under fluoroscopic guidance and MAC. Per the anesthesia record, Respondent was both the proceduralist and the anesthesiologist

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[12] Monitored anesthesia care (MAC) is a type of anesthesia service in which an anesthesia clinician continually monitors and supports the patient's vital functions; diagnoses and treats clinical problems that occur; administers sedative, anxiolytic, or analgesic medications if needed; and converts to general anesthesia if required.

for the procedure. The anesthesia record indicates Patient A was administered Fentanyl[13] 50 mcg and Versed[14] 1 mg at approximately 7:25 a.m. Per Respondent, after the procedure was completed, Patient A was taken to the post anesthesia care unit (PACU) "awake and stable."

30. On or about August 4, 2017, Patient A arrived in the PACU at approximately 8:00 a.m. Nurse A.O. was assigned to care for Patient A in the PACU. At approximately 8:30 a.m., Nurse A.O. noted that Patient A was "still very sleepy." Immediately thereafter, Nurse A.O. notified Respondent that the patient was still very sleepy. The action taken was to continue to monitor Patient A. From 8:00 a.m. to 10:00 a.m., Respondent failed to perform an assessment or evaluation of Patient A and failed to order any intervention other than continue to monitor.

31. On or about August 4, 2017, at 10:00 a.m., Nurse A.O. noted that Patient A continued to be sleepy and again notified Respondent. At that time, Respondent ordered that Patient A be transferred to the Providence Tarzana Medical Center for evaluation. At approximately 10:05 a.m., an unknown employee of the surgery center called 911 to have the patient transported to the Providence Tarzana Medical Center via ambulance.

32. On or about August 4, 2017, at approximately 10:07 a.m., the ambulance arrived at the surgery center. The paramedics noted Patient A was not alert, nor oriented. At 10:12 a.m., the paramedics documented a Glasgow Coma Scale (GCS)[15] of 5 – best eye response was scored at 2 (eye opening to pain); best verbal response was scored at 2 (incomprehensible sounds); and best motor response was scored at 1 (no motor response). At 10:24 a.m., Patient A was transported by ambulance to the emergency department at the Providence Cedar Sinai Tarzana Hospital for further evaluation and care.

33. On or about August 4, 2017, Patient A arrived at the hospital at 10:27 a.m. Upon arrival, Patient was noted to have a GCS score of 3 – best eye response: 1 (none); best verbal

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[13] Fentanyl is a powerful synthetic opioid approved by the Food and Drug Administration for use as an analgesic (pain relief) and anesthetic.

[14] Versed is a benzodiazepine medication used for anesthesia and procedural sedation, and to treat severe agitation.

[15] The Glasgow Coma Scale (GCS) is used to objectively describe the extent of impaired consciousness in all types of acute medical and trauma patients. The scale assesses patients according to three aspects of responsiveness: eye-opening, motor, and verbal responses. The GCS is scored between three and fifteen, with three being the worst and fifteen being the best.

response: 1 (none); best motor response: 1 (none). Her eyes were open but she was unresponsive, including to pain. The emergency room physician, Dr. T.S., noted that Patient A presented to the emergency department with persistent altered mental status after receiving Fentanyl and Versed before undergoing an epidural injection for pain. Dr. T.S. noted a last known well time of 6:30 a.m. on or about August 4, 2017. Upon examining the patient, Dr. T.S. noted that Patient A was nonresponsive with a right-sided gaze deviation of her head and eyes and no gross movement. Narcan[16] was administered at the hospital with no response. Patient A was intubated and ordered admitted to the intensive care unit at approximately 11:17 a.m. At approximately 12:47 p.m., the attending physician, Dr. S.S., performed an admission history and physical and diagnosed Patient A with acute encephalopathy,[17] altered mental status, and agitation.

34. Patient A was discharged home on or about August 7, 2017, with home health care.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

35. Respondent Bakhtiar Moussazadeh, M.D. is subject to disciplinary action under section 2234, subdivision (b), of the Code in that Respondent was grossly negligent in the care and treatment of Patient A. The circumstances are as follows:

36. The facts and allegations set forth in paragraphs 18 to 34 are incorporated herein by reference as if fully set forth.

37. Anesthesiology is the practice of medicine including, but not limited to, patient care before, during, and after surgery and other diagnostic and therapeutic procedures, and the management of systems and personnel that support these activities. The practice of anesthesiology includes, but is not limited to, the evaluation and optimization of preexisting medical conditions, the perioperative management of coexisting disease, the delivery of anesthesia and sedation, the management of post-anesthetic recovery, and the prevention and management of periprocedural complications. Although the practice of anesthesiology includes

[16] Narcan is a medication that can reverse or reduce the effects of opioids. It is within a class of drugs called opioid reversal agents or opioid antagonists.

[17] Encephalopathy is a term for any disease of the brain that alters brain function or structure.

the delegation of monitoring and appropriate tasks by the physician to non-physicians on the care team, overall responsibility for the team's actions and patient safety ultimately rests with the physician anesthesiologist.

Acting as Both the Proceduralist and the Anesthesiologist During MAC

38. All types of anesthesia carry risks. Medical, anesthetic, and surgical complications may arise unexpectedly and require immediate medical diagnosis and treatment. When a procedure is performed under MAC, the standard of care requires a qualified anesthesia provider that is not also the proceduralist to be present the entire time, focused exclusively and continuously on the patient for any attendant airway, hemodynamic, and physiologic derangements. The provider performing MAC must be able to diagnose and treat clinical problems that occur during the procedure, including but not limited to, being able to intervene to manage any sedation-induced compromise.

39. On or about August 4, 2017, Respondent performed a"[l]eft C4/5 and C5/6 facet joint/medial branch radiofrequency denervation under fluoroscopic guidance" on Patient A, while he also administered MAC anesthesia on the patient. Acting as a proceduralist and as an anesthesiologist creates a risk of being unable to adequately address any complications with the patient, including during the sedation and thereafter, and is an extreme departure from the standard of care.

Failing to Provide Appropriate Postanesthesia Care

40. Routine postanesthesia care is coordinated by the anesthesiologist and delegated to postanesthesia nurses under the medical supervision of an anesthesiologist. The standard of care requires the anesthesiologist to provide appropriate postanesthetic care for his or her patients.

41. When a procedure is performed under MAC, the standard of care for post-procedure care by anesthesiologists includes several responsibilities, including but not limited to, assuring a return to baseline consciousness, relief of pain, management of adverse physiological responses or side effects from medications administered during the procedure, as well as the diagnosis and treatment of co-existing medical problems. Respondent's failure to adequately meet these post-procedure responsibilities in his care and treatment of Patient A, including, without limitation,

when he failed to timely and appropriately evaluate, assess, monitor, intervene, manage adverse physiological responses or side effects from medications that were administered during the procedure, and/or diagnose and treat existing medical problems, when notified that Patient A was not returning to her baseline level of consciousness, was an extreme departure from the standard of care.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

42. Respondent Bakhtiar Moussazadeh, M.D. is subject to disciplinary action under section 2234, subdivision (c), of the Code in that Respondent was negligent in his care and treatment of Patient A and in his documentation for the patient. The circumstances are as follows:

43. The facts and allegations set forth in the First Cause for Discipline are incorporated by reference as if fully set forth.

44. Each of the alleged acts of gross negligence set forth in the First Cause for Discipline, above, is also a negligent act.

45. Accurate and thorough documentation is an essential element of high quality and safe medical care, is a basic responsibility of anesthesiologists, and is required under the standard of care. Accurate and thorough documentation must be accomplished in all three phases of anesthesia related care – preanesthesia, intraoperative/intraprocedural anesthesia, and postanesthesia care. Documentation should be clear, concise, comprehensive, timely, and must accurately and truthfully reflect the care and treatment provided to a patient, as well as accurately and truthfully describe the patient's status. Respondent's documentation with respect to Patient A's periprocedural care did not meet the standard of care.

Respondent's Untimed Progress Note Dated August 4, 2017

46. Respondent documented in an untimed progress note dated August 4, 2017 that Patient A was transferred to the PACU "awake and stable." However, this note is contradicted by the PACU nurse's initial assessment note for the patient, which indicated that Patient A was drowsy and arousable on calling, but not awake.

47. In that same note, Respondent documented that the PACU nurse called him approximately 30 minutes after Patient A arrived in the recovery room and allegedly reported that the "patient was still sleepy/groggy, but awake and responsive." Respondent's documentation that the PACU nurse reported that Patient A was "awake" is contradicted by the PACU nurse's notes indicating Patient A was "still sleepy."

48. In that same note, Respondent documented that he was "called again" by the nurse "as patient still remained awake/responsive but sleepy...[and] it was decided to transfer patient to Tarzana Hospital for further evaluation. Paramedics were called and patient was transported in stable condition to the E.R." Respondent failed to document the time he was "called again" and failed to document facts or findings regarding Patient A's actual clinical condition. Respondent's note that Patient A "remained awake/responsive" is contradicted by the PACU nurse's note indicating the patient was "still sleepy," and is incompatible with what was reported to the 911 operator by the surgery center staff and the findings by the paramedics when they arrived. The person who called 911 reported to the operator that Patient A was not waking up. The paramedics noted that they were dispatched to the surgery center for an "unconscious" patient. When the paramedics arrived at Patient A's bedside, they described Patient A as not alert or oriented. On neurological examination, the paramedics found Patient A's level of consciousness was responsive to pain, and they documented a GCS of 5 – best eye response was scored at 2 (eye opening to pain); best verbal response was scored at 2 (incomprehensible sounds); and best motor response was scored at 1 (no motor response). These findings documented by other providers suggest that Respondent's note described in this paragraph was not truthful or accurate at the time it was written.

49. Respondent's documentation in the progress note did not comply with the standard of care as it was not accurate or thorough. The documentation failed to include the timing of events and notifications, failed to document Patient A's clinical status, did not accurately and truthfully reflect the care and treatment provided to a patient, and did not accurately and truthfully describe the patient's status, and constitutes a false medical record. This was a simple departure from the standard of care.

Respondent's Note Timed at 10:04 a.m.

50. In a progress note dated August 4, 2017 and timed at 10:04 a.m., Respondent documented that he was called by a nurse to evaluate Patient A because Patient A was still "sleepy/groggy but awake. Not fully following command (sic.)." However, Respondent failed to document the time when the nurse called him to request that he evaluate the patient, failed to document whether he evaluated the patient when requested to do so, and if he did so, he failed to document his findings on evaluation.

51. In that same note, Respondent documented that Narcan 0.4 mg and Flumazenil[18] 0.5 mg were "titrated slowly." However, Respondent failed to document the time of administration, failed to document who administered the medications, failed to document the route of administration, failed to document the patient's response to the administration of the medication, and failed to document a post-administration patient assessment. With respect to these medications, there is no documentation elsewhere in the record, including in Respondent's progress note or by any of the nursing staff, documenting the timing and/or route of administration and/or fact of administration of these medications and/or reported patient response, as would be expected and required under the standard of care. Accordingly, Respondent's documentation of the administration of these reversal agents was neither truthful nor accurate.

52. In that same note, Respondent documented that the patient was "still sleepy", vital signs are stable, and the patient is "awake but still not fully following command (sic.) ... paramedics called. Patient transferred to Tarzana Hospital for further eval (sic.)." However, Respondent failed to document the time when he claims Patient A was "still sleepy" and "awake," failed to document any other findings on examination, and failed to document any additional relevant clinical information regarding Patient A's status.

53. Respondent's description of Patient A's status as "still sleepy" and "awake" contradicts with what was reported to the 911 operator by the surgery center staff and the findings by the paramedics when they arrived at 10:12 a.m., eight (8) minutes after the subject note was

[18] Flumazenil is a benzodiazepine reversal agent (antagonist) for benzodiazepine overdose and postoperative sedation from benzodiazepine anesthetics.

written. The person who called 911 reported to the operator that Patient A was not waking up. The paramedics noted they were dispatched to the surgery center for an "unconscious" patient. When the paramedics arrived at Patient A's bedside, they described Patient A as not alert or oriented. On neurological examination, the paramedics found Patient A's level of consciousness was responsive to pain, and they documented a GCS of 5 – best eye response was scored at 2 (eye opening to pain); best verbal response was scored at 2 (incomprehensible sounds); and best motor response was scored at 1 (no motor response). Based upon the foregoing, Respondent's note was not truthful or accurate at the time it was written.

54. Respondent's documentation in the note timed at 10:04 a.m. did not comply with the standard of care. It was not clear, concise, comprehensive, or timely, and did not accurately and truthfully reflect the care and treatment provided to a patient or accurately and truthfully describe the patient's status, and constitutes a false medical record. This was a simple departure from the standard of care.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

55. Respondent Bakhtiar Moussazadeh, M.D. is subject to disciplinary action under sections 2234, subdivision (a), and 2266 of the Code in that Respondent failed to maintain adequate and accurate records relating to Patient A. The circumstances are as follows:

56. The facts and allegations set forth in the First and Second Causes for Discipline are incorporated by reference as if fully set forth.

FOURTH CAUSE FOR DISCIPLINE

(Dishonest or Corrupt Acts, False Representations and Creating a False Medical Record)

57. Respondent Bakhtiar Moussazadeh, M.D. is subject to disciplinary action under sections 2234, subdivisions (a) and (e), 2261, and 2262 of the Code in that Respondent committed dishonest and/or corrupt acts, made false representation, and/or created false medical records relating to Patient A. The circumstances are as follows:

58. The facts and allegations set forth in the First, Second, and Third Causes for Discipline are incorporated by reference as if fully set forth.

FIFTH CAUSE FOR DISCIPLINE

(Practicing Under a Fictitious Business Name Without A Permit)

59. Respondent Bakhtiar Moussazadeh, M.D. is subject to disciplinary action under sections 2234, subdivision (a), 2272, 2285, and 2415 of the Code in that Respondent is practicing under a fictitious business name without a permit. The circumstances are as follows:

60. Respondent advertises his practice under the name "California Pain Docs." Respondent maintains a website with a domain name of www.californiapaindoc.com. The website welcomes the public to "California Pain Docs" and invites them to contact "California Pain Docs" to request an appointment. The letterhead used for the new patient forms includes a "California Pain Docs" logo in the upper left corner and a header on page 2 with the "California Pain Docs" address and phone number. When a person clicks on the Contact button, the information provided is for "California Pain Docs."

61. Respondent is practicing under the name of "California Pain Docs," but has not applied for or been issued a fictitious name permit to practice under that name by the Board.

SIXTH CAUSE FOR DISCIPLINE

(Making False, Fraudulent, Misleading, or Deceptive Statements to the Public)

62. Respondent Bakhtiar Moussazadeh, M.D. is subject to disciplinary action under sections 651, 2234, subdivision (a), 2271, 2272, 2285, and 17500 of the Code in that Respondent is making false, fraudulent, misleading, or deceptive statement to the public. The circumstances are as follows:

63. The facts and allegations set forth in paragraph 18 are incorporated herein by reference as if fully set forth.

64. The facts and allegations set forth in the Fourth and Fifth Causes for Discipline are incorporated by reference as if fully set forth.

65. On his website and on his new patient forms, Respondent advertises himself as a board certified anesthesiologist with fellowship training in interventional pain management.

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Those statements are false, fraudulent, misleading, and deceptive because Respondent's board certification by the American Board of Anesthesiology expired on December 31, 2021, and has not been renewed, and Respondent did not complete fellowship training in pain management.

DISCIPLINARY CONSIDERATIONS

66. To determine the degree of discipline, if any, to be imposed on Respondent Bakhtiar Moussazadeh, M.D., Complainant alleges that on or about April 22, 2016, in a prior disciplinary action entitled *In the Matter of the Accusation Against Bakhtiar Moussazadeh, M.D.* before the Medical Board of California, in Case Number 17-2012-226761, Respondent's license was publicly reprimanded for unprofessional conduct and for using a dangerous drug to the extent, or in such a manner as to be dangerous or injurious to himself, or to any other person or to the public, or to the extent that such use impaired his ability to practice medicine safely. That decision is now final and is incorporated by reference as if fully set forth herein.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 108651, issued to Bakhtiar Moussazadeh, M.D.;

2. Revoking, suspending, or denying approval of Bakhtiar Moussazadeh, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Bakhtiar Moussazadeh, M.D. to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: AUG 04 2023

REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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